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USDOC FOR 532/OEA/LHINES/DFARROW  
USDOC FOR 3132 FOR FCS/OIO REGIONAL DIRECTOR WILLIAM  
ZARIT  
BICE FOR OFFICE OF STRATEGIC INVESTIGATIONS

BEIJING FOR FCS JEANETTE CHU

SIPDIS

E.O. 12958: N/A

TAGS: BMGT BEXP HK ETRD ETTC  
SUBJECT: EXTRANCHECK: POST SHIPMENT VERIFICATION:  
ETERNAL INTERNATIONAL

REF: A) USDOC 06269 B) HK 00038

1. Unauthorized disclosure of the information provided below is prohibited by Section 12C of the Export Administration Act.

¶2. As per reftel A request and at the direction of the Office of Enforcement Analysis (OEA) of the USDOC Bureau of Industry and Security (BIS), Export Control Officer Philip Ankel (ECO) and Commercial Assistant Sandy Lai conducted a post shipment verification (PSV) at Eternal International (HK) Limited (Eternal HK), Unit 2706, Metropole Square, 2 On Yiu Street, Hong Kong. The items in question are 200 Neophotonics PCB base assemblies, classified under Export Control Classification Number (ECCN) 4A001 and most likely controlled for national security (NS) reasons. If properly classified, these items would most likely not require a license for export to Hong Kong but would require a license for export or reexport to mainland China. It is possible that these items are controlled for missile technology (MT) reasons and would then require a license to both Hong Kong and mainland China.

The exporter is Electromax Inc. of San Jose, California.

¶3. The ECO and Commercial Assistant visited Eternal HK at the address referenced above on December 19, 2006 and met with Ms. Denise Leung, Customer Service Manager responsible for this shipment. Ms. Leung was open and forthcoming during the interview. She provided background on Eternal HK and its business, which involves the provision of a logistics and freight forwarding services. It is the Hong Kong branch office of Eternal Asia ([www.etalasia.com](http://www.etalasia.com)), a large mainland China based supply chain management and logistics company. The offices of Eternal HK are located in a larger office building and contain a series of cubicles for customer service representatives. The address provided in reftel A (Unit 3, First Floor, Topsail Plaza, 11 On Sum Street, Hong Kong) corresponds to Eternal HK's warehouse space directly across the street from the offices of Eternal HK. Eternal HK has been in existence since 2000 while Eternal Asia was established in 1997.

¶4. Ms. Leung stated that with respect to the shipment in question, Eternal HK accepted the shipment of the 200 base assemblies on September 21, 2006 and

subsequently reshipped those items to Photon Technology Co., Ltd. in Shenzhen on September 23, 2006 (Photon Shenzhen). According to the Photon Shenzhen web site ([www.phontotec.com](http://www.phontotec.com)), the Shenzhen Photon facility is an affiliate of Neophotonics, Inc. of San Jose, California (more information at [www.neophotonics.com](http://www.neophotonics.com)).

Ms. Leung stated that Photon Shenzhen may itself use the items or resell them to other buyers in the mainland. Coincidentally, the ECO and Commercial Assistant conducted a PSV at another, unrelated, company, involving Photon Shenzhen (see reftel B).

¶ 15. Ms. Leung provided the ECO with the relevant shipping documents in respect of those shipments into the mainland. Those documents reflect that Eternal HK is the seller and Eternal Supply Chain Management Ltd. in mainland China is the buyer of the applicable items.

Eternal Asia markets itself as providing inventory management services. The sale price reflected in the transaction documents between Eternal HK and Eternal Supply Chain Management Ltd. reflects a significant markup over the sum paid to Electromax Inc. (the U.S. exporter). In particular, the total invoice price for the Electromax to Eternal HK transaction is USD 62,907 while Eternal HK apparently sold the same items to Eternal Supply Chain Management Ltd. for USD 81,529.

¶ 16. When asked by the ECO whether Eternal HK was familiar with U.S. export control regulations, Ms. Leung said it was not. Ms. Leung stated that, in certain cases where it knew of the controlled nature of items under Hong Kong law, Eternal HK would apply for applicable Hong Kong import and export control licenses. She cited cases involving Cisco items for which Eternal HK obtained Hong Kong Trade and Industry

Department (TID) licenses when it was informed that such licenses were necessary. In other instances, Eternal HK looks up the brand name and model number and compares it against a list of controlled technologies on the TID website to determine whether a license is required. Where, as in this case, parts and components are involved, Eternal HK does not apply for TID licenses unless it is informed that such a license is required. Ms. Leung stated that Eternal HK does not have contact with exporters and that all customer relationships are handled by Eternal HK's parent company in the mainland.

¶ 17. The ECO stressed to Ms. Leung that the reexport of the items was subject to U.S. export control regulations and later provided additional BIS guidance on obligations of reexporters as well as a link to the BIS website so that Eternal could become more aware of U.S. export control rules.

¶ 18. At the time visited, Eternal HK did not appear to be a suitable recipient of the controlled items (as logistics provider) since it is unfamiliar with U.S. export controls and exercises only limited controls on reexports of controlled commodities. Consistent with BIS guidance on the classification of checks where the check reveals a cause for concern about the suitability of the parties involved, the ECO recommends that this PSV be classified as Unfavorable.

Cunningham